

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
RECEIVED EASTERN DIVISION

George D. McCarley
Plaintiff

v.

Household Finance Corporation, Ltd.
Defendant

2007 MAR 27 A 9:39
Civil Action No. 3:06-CV-0091-MEF
Lead Case

W. P. HACKETT, JR.
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

Jury Trial Demand

PLAINTIFF REQUESTS LEAVE TO AMEND SUMMARY JUDGMENT MOTION

In compliance with court order 40 plaintiff respectfully requests leave to amend his *Motion for Summary Judgment*.

Plaintiff relied heavily upon his belief that defense counsel had failed to comply with the courts earlier non-numbered order of 10/10/2006. Upon being advised the court's "ministerial error" caused defendant not to be served said order, plaintiff believes it proper to retract that count from his motion while amending other counts included. Further, plaintiff informs the court of his belief (at time motion was filed) that the count to be removed was sufficiently strong as to represent an unconscionable¹ act of the defense and thus plaintiff believed his motion was sufficiently strong as to not require any further brief² or case citations. Now being informed to the contrary and in

¹ "It is generally accepted that a court of equity has the power to relieve a mortgagor, . . . where the default of the mortgagor was the result of some unconscionable or inequitable conduct of the mortgagee" (55 Am Jur 2d §375 footnote 4)

Johnson v. Gore, 224 Miss 600, 80 So2d 731

Freund v. Weisman, 101 NJ Eq 245, 137 A 885, 53 ALR 522

Weyand v. Park Terrace Co., 202 NY 231, 95 NE 723

Annotation in support of citations above: 70 ALR 993 (67 cases)

"Or simply where the court is confronted with genuinely equitable grounds for relief "

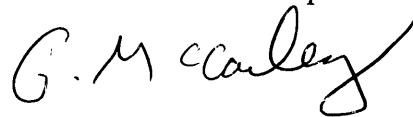
Bison v. Sax, 175 Cal app 2d 714, 346 P2d 814

² Plaintiff requests this court "look at" Document 12 filed on 3/10/2006 and inform plaintiff whether Document 12 serves as proof of understanding of FRCP.

compliance with court order 40, plaintiff requests permission to file a brief and necessary case citation's to support amended Motion for Summary Judgment.

Plaintiff will study Federal Rules of Civil Procedure to insure his compliance with same.

Respectfully submitted


George D. McCarley, Pro Se

216B Chestnut Street
Roanoke, Al 36274
334-863-6489

PROOF OF SERVICE

I, George D. McCarley, do swear or affirm that on this date, March 24, 2007, as required by Supreme Court Rule 29 I have served the enclosed ACTION on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing envelope containing the above documents in the United States Mail properly addressed to each of them, and with first class postage prepaid, or by delivery to a third party commercial carrier for delivery within 3 calendar days.

The Clerk

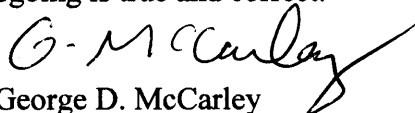
Middle District of Alabama, Eastern Division
One Church Street, PO Box 711
Montgomery, Al 36101-0711
334-954-3600

Defendant Attorney

Mr. George Parker
Bradley Arant Rose and White
Alabama Center for Commerce
401 Adams Avenue, Suite 780
Montgomery, Al 36104
334-956-7671, 956-7700

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 24, 2007


George D. McCarley